

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**NICKOLAS TSUI, on behalf of himself and
others similarly situated,**

Plaintiff,

v.

WALMART INC.,

Defendant.

No. 1:20-cv-12309-MPK

**PLAINTIFF’S MOTION FOR FINAL CERTIFICATION OF SETTLEMENT CLASS
AND FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiff Nickolas Tsui (“Plaintiff” or “Tsui”) respectfully submits the following Motion for Final Certification of Settlement Class and Final Approval of Class Action Settlement (“Motion”). For the reasons set forth in the Memorandum of Law in Support of Plaintiff’s Motion, the Declarations of Michael J. Scimone in Support of Plaintiff’s Motion, and the exhibits attached thereto, Plaintiff respectfully requests that the Court enter an Order:

1. Granting the Motion;
2. Approving the Settlement as set forth in the Settlement Agreement (“Settlement” or “Settlement Agreement”) as fair, reasonable, adequate, and in the public interest;
3. Directing the parties to consummate the Settlement Agreement in accordance with its terms;
4. Approving payment of the Class Settlement Amount in accordance with the terms of the Settlement Agreement;

5. Approving the planned distribution of the Class Settlement Amount as fair, adequate, and reasonable, and directing it to be distributed in accordance with the terms of the Settlement Agreement;

6. Dismissing the litigation with prejudice and without costs to any Party, other than as specified in the Agreement;

7. Fully, finally, and forever releasing, relinquishing, and discharging all Released Claims against the Releasees in accordance with Section 13 of the Settlement Agreement;

8. Entering Final Judgment in this action as to all Settlement Class Members' Released Claims;

9. Retaining jurisdiction over: (a) the interpretation, implementation, and enforcement of the Settlement Agreement and the terms of the Settlement Agreement; (b) the distribution of the Class Settlement Amount, including the Service Payment to the Settlement Class Representative, the Payment of the Attorneys' Fees and Litigation Expenses, and the Payment to the Claims Administrator; and (c) all other proceedings related to the implementation, interpretation, administration, consummation, and enforcement of the terms of the Settlement Agreement, and the administration of Claims submitted by Settlement Class Members;

10. Retaining jurisdiction over this action (a) for a period of six months after the Settlement Effective Date, or (b) for a period of one month after all Settlement Class Members have received their final payments under the Settlement Agreement and any remaining funds from the Class Settlement Amount have been redistributed, whichever is greater; and

11. Granting such other, further, or different relief as the Court deems just and proper.

Walmart does not oppose the relief sought in this Motion.

Plaintiff submits a Proposed Order, attached as **Exhibit A**, for the Court's convenience.

Dated: October 4, 2021
New York, NY

Respectfully submitted,

/s/ Michael J. Scimone
Michael J. Scimone*
Adam T. Klein*
OUTTEN & GOLDEN LLP
685 Third Ave., 25th Floor
New York, NY 10017
Tel: (212) 245-1000
Email: mscimone@outtengolden.com
Email: atk@outtengolden.com

Nathaniel Silver
BLOCK & LEVITON LLP
260 Franklin Street, Suite 1860
Boston, MA 02110
Tel: (617) 398-5600
Email: nate@blockleviton.com

R. Joseph Barton*
BLOCK & LEVITON LLP
1735 20th Street NW
Washington, DC 20009
Tel: (202) 734-7046
Email: joe@blockesq.com

Peter Romer-Friedman*
GUPTA WESSLER PLLC
1900 L St. NW, Suite 312
Washington, DC 20036
Tel: (202) 888-1741
Email: peter@guptawessler.com

Matthew Z. Crotty*
CROTTY & SON LAW FIRM, PLLC
905 W. Riverside Ave., Suite 404
Spokane, WA 99201
Tel: (509) 850-7011
Email: matt@crottyandson.com

Thomas G. Jarrard*
LAW OFFICE OF THOMAS G.
JARRARD LLC

1020 N. Washington St.
Spokane, WA 99201
Tel: (425) 239-7290
Fax: (509) 326-2932
Email: Tjarrard@att.net

* admitted *pro hac vice*
Attorneys for Plaintiff and the Proposed
Class

CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2021 a copy of the foregoing document was filed electronically and service made by certified mail to anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by certified mail for anyone unable to accept electronic filing. Parties may access this filing through the Court's system.

/s/ Michael J. Scimone
Michael J. Scimone